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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,438	06/01/2005	Ulrich Muller	05-0437	1391
30996 7590 01/09/2008 ROBERT W. BECKER & ASSOCIATES 707 HIGHWAY 333 SUITE B TIJERAS, NM 87059-7507			EXAMINER KERNS, KEVIN P	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 01/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/533,438	Applicant(s) MULLER, ULRICH	
	Examiner Kevin P. Kerns	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-20 and 24-32 is/are pending in the application.  
     4a) Of the above claim(s) 28-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-20 and 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims 28-32 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-20 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson (US 3,437,783).

Lemelson discloses a method of producing a metallic composite comprising the steps of providing metallic fibers and compressing and fusing the fibers in a single step. The fibers are derived from bulk material. The opposite sides of the metallic composite are fused with wire meshes. The welding is carried out in inert gas (figures 1-4, col. 3, line 53 - col. 4, line 14).

Lemelson discloses the claimed invention above, but lacks the mentioning of pulse fusing less than 10s and pressure bonding of between 0.1 N/mm<sup>2</sup> to 10 N/mm<sup>2</sup>.

However, Lemelson discloses pressure bonding and pulsing (col. 3, line 31). Therefore, it would have been obvious to pressure weld and pulse weld between 0.1 N/mm<sup>2</sup> to 10 N/mm<sup>2</sup> and less than 10s, respectively, since such ranges would involve routine experimentation.

### ***Response to Arguments***

4. The examiner acknowledges the applicant's amendment received by the USPTO on December 3, 2007. The applicant is referred to above section 1 concerning the status of nonelected (withdrawn) claims 28-32 of the prior restriction requirement. The applicant has cancelled claims 21-23, while incorporating their limitations into independent claim 15, thus overcoming the prior 35 USC 102(b) rejections. Claims 15-20 and 24-27 are currently under consideration in the application.

5. Applicant's arguments filed December 3, 2007 have been fully considered but they are not persuasive.

With regard to the applicant's remarks/arguments on pages 4 and 5 of the amendment, the applicant argues that Lemelson fails to teach "pulse welding". The examiner respectfully disagrees, since Lemelson discloses using pulse electrical energy during welding (see column 3, line 31). Therefore, the claimed limitation is not defined over the prior art of record. In addition, it is suggested that the applicant amend independent claim 15 to clearly define distinct steps of the "pulse welding" method.

With regard to the obviousness of the ranges in the claim limitations, the rationales for

arriving at a conclusion of obviousness have been suggested by the recent Supreme Court decision. In this instance, the selection of ranges/values would be "obvious to try", since the applicant is choosing from a finite number of identified predictable solutions with a reasonable expectation of success. *KSR Int'l Co. v. Teleflex Inc.*, 82 USPQ.2d 1385 (S.Ct. 2007). As a result, claims 15-20 and 24-27 remain rejected.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kevin P. Kerns whose telephone number is (571) 272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jonathan Johnson can be reached on (571) 272-1177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin P. Kerns *Kevin Kerns* 1/3/08  
Primary Examiner  
Art Unit 1793

*KPK*  
kpk  
January 3, 2008